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LEASES

USEPA SF



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L E A S E

DATED: May 11, 1984

BETWEEN: ROGER P. BURPEE, 2383 Palisades Crest Drive,  
Lake Oswego, Oregon 97034, hereinafter design-  
ated as "Landlord",

AND: PACIFIC DETROIT DIESEL ALLISON, INC., formerly  
known as PACIFIC DIESEL POWER CO., 5061 North  
Lagoon Avenue, Portland, Oregon 97217, herein-  
after designated as "Tenant".

Landlord leases to Tenant and Tenant leases from  
Landlord all the real property described in Exhibit A,  
and portions of the real property described in Exhibits B  
and C. All of the leased property is described herein as  
"the Premises." The leased portion of the real property  
described in Exhibits B and C is shown on the maps attached  
hereto and is as follows:

A. North Basin Avenue (Exhibit B) - The leased  
portion of the real property described on Exhibit B shall be  
all of Tract A and the southern portion of Tract B; the  
southern boundary of which shall be North Basin Avenue,  
and the northern boundary shall be a line constituting an  
extension of the 240' northern boundary of Tract A.

Landlord reserves the remaining portion of the real property  
described as Tract B, and all of the real property described  
as Tract C. Landlord reserves an easement across the leased  
portion of Tract B to secure reasonable access from the  
adjacent properties to North Basin Avenue.

B. Springfield (Exhibit C) - Landlord leases to Tenant the following specified portion of the real property described in Exhibit C as Parcels I and II: the leased portion shall consist approximately of the eastern one-half of the property; the western boundary of which shall be a north-south line at a mid-point drawn between the eastern face of the Existing Building on the western portion of the property, and the western face of the Pacific Diesel Power Co. building. Landlord reserves the western portion of the property. Landlord and Tenant reserve equal, non-exclusive rights to the two easements described as Parcel III. Landlord hereby grants to Tenant, and Tenant hereby grants to Landlord, easements across each of their respective properties to secure reasonable access for both parties to the two easements described as Parcel III.

This lease is subject to the following terms and conditions:

1. TERM

1.1 Original Term - The original term of this lease shall commence as of May 8, 1984, and, unless sooner terminated as hereinafter provided, shall continue through May 31, 1994. *Revised to May 31, 2002*

1.2 Right of Renewal - Provided this lease is not in default, Tenant is granted a right of renewal of this lease. At the option of Tenant, the term may be

extended for one renewal period of five years from June 1, 1994 through May 31, 1999, by written notice to Landlord at least twelve (12) months prior to the expiration of the original term. Upon valid exercise of such right of renewal, the terms of this lease shall remain in full force and effect except that the rental shall be as stipulated in Section 2.3. Tenant can exercise renewal option as to the three properties as a unit, or can separately exercise with respect to any one or more of the individual properties.

1.3 Option to Purchase - The Tenant shall have the option to purchase the Premises, or each of the individual properties constituting the Premises separately. The Tenant shall have the right to order (at its expense) a preliminary title report (the "Title Report"), disclosing the restrictions and encumbrances of record, subject to which Landlord will convey the Premises under this Section 1.3. This option may be exercised at the end of the original term and at the end of the renewal term (if renewal option exercised) under the following terms and conditions:

(a) The purchase price of the Premises, or each of the individual properties, shall be the fair market value as fixed by an independent, professional MAI appraiser. The appraiser shall be selected by agreement of Landlord and Tenant. If Landlord and Tenant are unable to agree, each party shall submit the names of three qualified

appraisers to the Presiding Circuit Court Judge of Multnomah County, who shall then select an appraiser from the submitted names.

(b) Tenant must exercise the option to purchase by written notice to Landlord requesting an appraisal within thirty (30) days of the end of the original term or the renewal term, and by written notice to the Landlord of intent to exercise option to purchase within ninety (90) days after the purchase price is fixed by appraisal.

(c) If Tenant requests appraisal by written notice and fails to exercise the option to purchase, appraisal costs shall be borne entirely by Tenant. If Tenant requests appraisal and exercises the option to purchase, appraisal costs shall be shared equally by Landlord and Tenant.

(d) Tenant has the right to exercise its option to purchase the three properties as a unit, or can separately exercise with respect to each of the properties subject to the following restriction:

With respect to the Basin Street and Springfield properties, Landlord has the right to include the adjacent properties (described in Exhibits B and C, but not included in the Premises) in the purchase option.

(e) If Tenant exercises its right to purchase any property, closing shall occur within one-hundred and twenty (120) days of the date the price was established by appraisal. Rent shall be due and payable to the date of closing. Unless otherwise agreed by the parties, the sale shall be for cash at closing. Landlord shall provide at closing a standard owner's policy of title insurance subject to restrictions and encumbrances as disclosed in the Title Report described above. At closing, Landlord will deliver to Tenant a bargain and sale deed for the purchased property.

2. RENTAL

2.1 Base Rent - Tenant shall pay to Landlord a base annual rental (the "Base Rent") for the original term of this lease in the sum of Two Hundred Forty Thousand Dollars (\$240,000.00), payable in monthly installments of Twenty Thousand Dollars (\$20,000.00), in advance on the first day of each month. A "lease year" shall be the period June 1 through the succeeding May 31.

2.2 Additional Rent - On the first day of the fourth, seventh and tenth years of the lease term (the "Adjustment Dates"), the Base Rent shall be subject to adjustment. The term Base Rent includes the rent specified in Section 2.1 above and all adjustments made to Base Rent in prior years pursuant to this Section 2.2. All additional

*- Revised to include 1987, 1990, 1993, 1996, 1999*

87 90 93 96 99

amounts payable under this Section 2.2, or Section 2.3, shall be divided and paid in twelve (12) equal installments during each lease year.

On each Adjustment Date, the Base Rent shall be increased by the amount of increase in the Consumer Price Index ("CPI"), for Portland, Oregon, for all items, of the Bureau of Labor Statistics of the United States Department of Labor. The increase in the CPI shall be determined by the change in the CPI between (i) the last Portland CPI which is published at least three years prior to the Adjustment Date; and (ii) the last Portland CPI which is published prior to the Adjustment Date.

2.3 Renewal Term Rent - In the event Tenant exercises the renewal option with respect to less than all of the properties, rent in effect for the tenth lease year will be prorated among the properties based on the relative true cash values as determined for property taxes. In the event the renewal option is exercised, on the first day of the third year of the renewal term, the Base Rent, as previously adjusted, shall be further increased by the amount of increase in the CPI in the same manner as described in Section 2.2, above.

2.4 Substitution - If at the time required for determination of the additional rent the Portland CPI is no longer published or issued, Landlord shall use such other index as is generally recognized and accepted for similar determinations of purchasing power.

2.5 Time and Place of Payment - Tenant shall pay the rent when due at Landlord's address as Landlord shall designate by written notice to Tenant. If any rent is not paid on the due date, in addition to Landlord's other rights and remedies, the delinquent amount shall bear interest at the rate of twelve (12) percent per year from the due date until paid.

3. COVENANTS AND WARRANTIES OF LANDLORD

3.1 Authority - Landlord represents and warrants that Landlord has full right and lawful authority to enter into and perform the Landlord's obligations under this lease for the full term hereof and for all extensions herein provided.

3.2 Quiet Enjoyment - Landlord covenants that if Tenant shall discharge the obligations herein set forth to be performed by Tenant, Tenant shall have and enjoy, during the term hereof and all extensions herein provided, the quiet and undisturbed possession of the Premises and all appurtenances thereto together with the right to use the Premises as in this lease contemplated.

4. USE OF THE PREMISES

4.1 Permitted Use - The Premises shall be used by Tenant for its business and for any other use permitted by law.

4.2 Restrictions on Use - In connection with the use of the Premises, Tenant shall:



(a) At its own expense, comply with all applicable laws, ordinances, regulations and legal requirements which pertain to Tenant's occupancy of the Premises undertaken by Tenant, or which require or permit that alterations, changes or additions be made to the Premises during the term of this lease.

(b) Refrain from any unlawful use of the Premises.

5. SERVICES AND UTILITIES

5.1 Utility Charges - Tenant shall pay when due all charges for services and utilities incurred in connection with the use, occupancy, operation and maintenance of the Premises, including but not limited to, charges for fuel, water, gas, electricity, sewage disposal, power, refrigeration, air conditioning, and janitorial services.

6. MAINTENANCE AND REPAIR

6.1 Condition of Premises - Landlord makes no warranty as to the condition of the Premises or any improvements thereon or the adequacy of the Premises for Tenant's intended use, and Tenant agrees to take possession of the Premises "AS IS" and not based upon any representation by Landlord.

6.2 Maintenance and Repair Costs - Tenant shall, at its own expense, make all necessary repairs and replacements to the Premises and to the pipes, heating system,

plumbing system, window glass, fixtures, and all other appliances and their appurtenances, all equipment used in connection with the leased property, and the sidewalks and curbs adjoining or appurtenant to the leased property. Such replacements and repairs shall be made promptly, as and when necessary. All repairs and replacements shall be in quality and class at least equal to the original work. On the default of Tenant in making such repairs or replacements, Landlord may, but shall not be required to, make such repairs and replacements for Tenant's account, and the expense thereof shall constitute and be collectible as additional rent.

7. ALTERATIONS AND IMPROVEMENTS

7.1 Landlord's Consent to Alterations - Tenant shall make no alterations, additions or improvements to or upon the Premises without first obtaining Landlord's written consent, which shall not be unreasonably withheld. If Tenant desires to make major improvements to the Premises, Tenant shall first obtain Landlord's written consent to the design of such major improvement, which consent shall not be unreasonably withheld. All salvage resulting from such operations shall belong to and be disposed of by Tenant. Any alterations made on the Premises shall be completed in a good and workmanlike manner. Alterations made on the Premises and fixtures, other than trade fixtures, installed on the Premises shall become a part of the

Premises and shall belong to the Landlord, unless the terms of the applicable consent provide otherwise.

7.2 Cooperation of Landlord - Landlord, to the extent necessary, but without expense or obligation to himself, shall cooperate with Tenant in securing any necessary authority required as a prerequisite to any alteration or installation provided for above.

8. INSURANCE

8.1 Coverage and Amount - Tenant shall, at its sole cost and expense, and as additional rent, during the term of this lease:

(a) Keep and maintain the building and building equipment, fixtures and appurtenances insured against all loss and damage including but not limited to, coverage for fire, vandalism, sprinkler leakage, and extended coverage in an amount not less than one hundred (100) percent of the full replacement value thereof.

(b) Provide any additional amount of the coverages described in (a) of this Section 8.1, as may be required from time to time, by the mortgagee of any mortgage placed upon the Premises by Landlord.

8.2 Waiver of Subrogation - All such policies shall contain a waiver of subrogation against Landlord, his agents and employees, and the proceeds thereof shall be

payable to Landlord and Tenant as their interests may appear. Certificates evidencing such insurance shall be delivered to Landlord or to such other person as Landlord shall specify. Tenant may, if it desires, maintain such insurance under a blanket policy, in which event any loss payable thereunder with respect to the building and contents shall be payable to Landlord and Tenant as their respective interests shall appear.

9. DAMAGE OR DESTRUCTION

If any building or improvement standing or erected upon the Premises is destroyed or damaged in whole or in part by any casualty, Tenant shall give prompt notice thereof to Landlord. This lease shall not terminate or be affected in any manner by reason of the destruction or damage in whole or in part of the Premises or any building or improvement now or hereafter standing or erected thereon. The rent reserved in this lease, as well as all other charges payable hereunder, shall be paid by Tenant in accordance with the terms, covenants and conditions of this lease, without abatement, dimunition, or reduction.

10. EMINENT DOMAIN

10.1 Total Taking - If a condemning authority takes all of the Premises or a portion sufficient to render the remaining Premises reasonably unsuitable for the use which Tenant was then making of the Premises, this lease shall terminate as of the date the condemning authority

takes possession, and in such event Tenant shall be entitled to reimbursement of any prepaid rent or taxes for the period after the date of such possession.

10.2 Partial Taking - If a portion of the Premises is condemned and Section 10.1 above does not apply, this lease shall not terminate but shall continue in full force and effect except that Landlord shall, at its own cost and expense, restore as soon as reasonably possible the Premises to a complete unit of like quality and character as existed prior to the condemnation.

10.3 Award - All damages for any taking under the power of eminent domain, whether for the whole or a part of the Premises, shall belong to and be the sole property of Landlord, whether such damages shall be awarded as compensation for diminution in value to the leasehold or to the fee of the Premises, provided, however, that Landlord shall not be entitled to any award made to Tenant for loss of or damage to Tenant's trade fixtures or removable personal property.

10.4 Sale in Lieu of Condemnation - Sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of a threat or probability of exercise of that power shall be treated for purposes of this Section 10 as a taking by condemnation.

## 11. LIABILITY TO THIRD PERSONS

### 11.1 Liens.

(a) Tenant shall pay as due all claims for work done on or for services rendered or material furnished to the Premises, and shall keep the Premises free from any liens, other than liens created by Landlord. If Tenant fails to pay any such claim or to discharge any lien, Landlord may do so and collect all costs of such discharge, including its reasonable attorneys' fees and interest at the rate of twelve (12) percent per year from the date of expenditure by Landlord, which shall be payable on demand. Such payment by Landlord shall not constitute a waiver of any right or remedy Landlord may have.

(b) Tenant may withhold payment of any claim in connection with a good faith dispute over the obligation to pay, so long as Landlord's property interests are not jeopardized. If a lien is filed as a result of nonpayment, Tenant shall within ten days after knowledge of the filing secure the discharge of the lien or deposit with Landlord cash or sufficient corporate surety bond or other security satisfactory to Landlord in an amount sufficient to discharge the lien plus any costs, attorneys' fees and other charges that could

accrue as a result of a foreclosure or sale under the lien.

11.2 Indemnification - Tenant shall indemnify and defend Landlord from any claim, loss or liability arising out of or related to any activity of Tenant or Tenant's guests, agents, customers, invitees, subtenants or concessionaires on the Premises or any condition of the Premises.

11.3 Liability Insurance - Prior to commencement of the lease term, Tenant shall obtain and thereafter shall continue to carry the following insurance at Tenant's cost:

(a) Personal injury and property damage liability insurance in a responsible company with limits of not less than \$500,000 for injury to one person, \$1,000,000 for injury to two or more persons in one occurrence, and \$100,000 for damage to property, or such other limits requested by Tenant as Landlord may hereafter approve in writing. Such insurance shall be in form satisfactory to Landlord, shall cover all risks of the Premises, whether or not related to an occurrence caused or contributed by Landlord's negligence, shall protect Tenant against claims of Landlord on account of the obligations assumed by Tenant under Section 11.2 above, and shall protect Landlord and Tenant against claims of third persons. Certificates evidencing such insurance and bearing

endorsements requiring ten days' written notice to Landlord prior to any change or cancellation shall be furnished to Landlord prior to the commencement of the term of this lease.

(b) Workers' Compensation from the State Accident Insurance Fund or from a responsible private carrier. Private insurance shall provide the schedule of benefits required by law and shall provide employer's liability coverage with limits of at least \$100,000 for injury to one person and \$300,000 for injury to two or more persons in one occurrence. Tenant shall supply Landlord with satisfactory evidence of public coverage or with certificates of private coverage in the same form as required in Section 11.3(a) above. In the event such insurance coverage is not available to Tenant upon reasonable terms, Tenant may elect to become self-insured with respect to some or all risks of employer's liability.

## 12. TAXES AND ASSESSMENTS

12.1 Payment by Tenant - During the lease term Tenant shall pay before they become delinquent all taxes, assessments, and public charges on the Premises other than taxes measured by net or gross income (the "taxes"). Taxes will be apportioned between Landlord and Tenant for the North Basin Avenue property (Exhibit B) and the Springfield property (Exhibit C) as follows:



(a) North Basin Avenue Property (Exhibit B):

Tenant shall pay the full amount of the taxes levied upon Tract A. Tenant shall also pay seventy-three (73) percent of the taxes levied upon Tract B. Landlord shall pay the balance of the taxes levied upon Tract B, and the full amount of the taxes levied upon Tract C.

(b) Springfield Property (Exhibit C):

Tenant shall pay 72.2 percent of the taxes levied upon the Springfield property (Exhibit C). Landlord shall pay the balance of the taxes levied upon the Springfield property.

Tenant may have the benefit of available installment payment or bonding plans on special assessments and shall be obligated to pay only those installments falling due during the term of this lease or renewal thereof.

12.2 Objection to Validity or Amount of Tax - If Tenant objects in good faith to the validity or amount of any tax or assessment which it is required to pay hereunder, Tenant, at its sole expense, may contest the validity or amount of such tax or assessment, and Landlord will join in any documents necessary for such contest. Any rebate received on account of tax or assessment paid by Tenant shall be paid to Tenant.

13. "NET" LEASE

It is the intention of the parties that Landlord shall not be required to make any expenditures whatsoever in connection with the Premises or to make any repairs to or maintain the Premises in any way during the term hereof, except (a) expenses of protecting Tenant's right to possession of the Premises, (b) payments on any encumbrances placed on the Premises by Landlord or its successors in title, and (c) as otherwise provided in Section 10 above, relating to eminent domain. It is expressly agreed that this is a "net" lease intended to insure Landlord to rent reserved on an absolute net basis except where this lease expressly provides otherwise.

14. DEFAULT

The following shall be events of default:

14.1 Nonpayment by Tenant - Tenant's failure to pay any amount due hereunder within ten (10) days after written notice by Landlord.

14.2 Noncompliance by Tenant - Tenant's failure to comply with any term or condition or fulfill any obligations of this lease (other than payment of rent or other charges) within thirty (30) days after written notice by Landlord specifying the nature of the default. If the default cannot reasonably be cured within the thirty (30) day period, this provision shall be satisfied if Tenant

commences correction of the default within the thirty (30) day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as possible.

14.3 Insolvency of Tenant - Tenant's insolvency; an assignment by Tenant for the benefit of creditors; the filing by Tenant of a voluntary petition in bankruptcy, and adjudication that Tenant is bankrupt, or the appointment of a receiver of the properties of Tenant; the filing of an involuntary petition of bankruptcy and Tenant's failure to secure a dismissal of such petition within sixty (60) days after filing; attachment or levying of execution upon the leasehold interest and failure of Tenant to secure discharge of such attachment or release of such levy within thirty (30) days. If Tenant consists of two or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within thirty (30) days after an event of default occurs the remaining individuals produce evidence satisfactory to Landlord that they have unconditionally acquired the interest of the one causing the default. If the lease has been assigned, the events of default so specified shall apply only with respect to the one then exercising the rights of Tenant under the lease.

#### 15. REMEDIES ON DEFAULT

15.1 Re-entry - In the event of a default, Landlord may elect to terminate Tenant's right to possession

of the Premises by written notice to Tenant. Following such notice, Landlord may re-enter, take possession of the Premises and remove any persons or property by legal action or by self-help, with the use of reasonable force. Landlord shall have the right to distrain Tenant's property on the Premises at the time of re-entry, or such other security interest therein as the law may permit, to secure all sums due or which become due to Landlord under the lease. Perfection of such security interest shall be by taking possession of the property or otherwise as provided by law.

15.2 Reletting - Following re-entry by Landlord because of Tenant's default, Landlord may relet the Premises for a term longer or shorter than the term of this lease and upon any reasonable terms, including the granting of rent concessions to the new tenant. Landlord may alter, refurbish or change the character or use of the Premises in connection with such reletting. No such reletting by Landlord following Tenant's default shall be construed as an acceptance of a surrender of the Premises. If rent received upon reletting exceeds the rent received under this lease, Tenant shall have no claim to the excess.

15.3 Damages for Default - Following re-entry, Landlord shall have the right to recover from Tenant the following damages:

(a) All unpaid rent or other charges for the period prior to re-entry, plus interest as provided herein.

(b) An amount equal to the rental lost during any period during which the Premises are not relet, if Landlord uses reasonable efforts to relet the Premises. If Landlord lists the Premises for a period of at least one hundred eighty (180) days upon reasonable terms with a real estate broker experienced in leasing commercial properties in the area of the Premises, such listing shall constitute the taking of reasonable efforts to relet the Premises.

(c) All costs incurred in reletting or attempting to relet the Premises including, without limitation, the cost of cleanup and repair in preparation for a new tenant, the cost of correcting any defaults or restoring any unauthorized alterations and the amount of any real estate commissions or advertising expenses.

(d) The difference between the rent reserved under this lease and the amount actually received by Landlord after reletting, as such amounts accrue.

(e) Reasonable pretrial, trial and appellate attorneys' fees incurred in connection with the default, whether or not any litigation is commenced.

15.4 Actions on Default - Landlord may sue periodically to recover damages as they accrue throughout the lease term and no action for accrued damages shall be a bar to a later action for damages subsequently accruing. To avoid a multiplicity of actions, Landlord may obtain a decree of specific performance requiring Tenant to pay the damages stated in Section 15.3 above as they accrue. Alternatively, Landlord may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the lease equal to the difference between the rent under this lease and the reasonable rental value of the Premises for the remainder of the term, discounted to the time of the judgment at the rate of ten (10) percent per year.

15.5 Tenant's Possession Following Default - In the event that Tenant remains in possession following default and Landlord does not elect to re-enter, Landlord may recover all back rent or other charges, and shall have the right to cure any nonmonetary default and recover the cost of such cure from Tenant, plus interest at the rate of twelve (12) percent per year from the date of the expenditure. In addition, Landlord shall be entitled to recover pretrial, trial and appellate attorneys' fees reasonably incurred in connection with the default, whether or not litigation is commenced. Landlord may sue to recover such amounts as they accrue, and no one action for accrued

damages shall bar a later action for damages subsequently accruing.

15.6 Remedies Cumulative - The foregoing remedies shall not be exclusive but shall be in addition to all other remedies and rights provided under applicable law, and no election to pursue one remedy shall preclude resort to another consistent remedy.

16. SURRENDER AT EXPIRATION

16.1 Condition of Premises - Upon expiration of the lease term or earlier termination on account of default, Tenant shall deliver all keys to Landlord and surrender the Premises in good repair. Depreciation and wear from ordinary use for the purpose for which the Premises were let need not be restored, but all repair for which Tenant is responsible shall be completed to the latest practical date prior to such surrender. Tenant's obligation under this subsection shall not apply in case of termination of this lease after total taking as provided in Section 10.1 above.

16.2 Fixtures; Personal Property - Except as provided in Section 15.1 above, Tenant shall remove all furnishings, furniture and trade fixtures which remain the property of Tenant and repair any physical damage resulting from such removal. The present overhead cranes are Landlord's property. If Tenant purchases or substantially repairs overhead cranes, such property shall be Tenant's, provided that Tenant has first obtained Landlord's consent.

to installation of any such property. If Tenant fails to remove any property required to be removed hereunder or to repair any damage, Landlord may elect to proceed as follows:

(a) Retain or dispose of the abandoned property as it sees fit and charge the cost of removal and repair of any physical damage to Tenant with interest at the rate of twelve (12) percent per year from the date of expenditure, or

(b) Following twenty (20) days' notice to Tenant, remove the property and place it in public storage for Tenant's account, in which case Tenant shall be liable for the cost of removal, repair, transportation and storage, plus interest at the rate of twelve (12) percent per year from the date of each expenditure.

16.3 Holdover - Should Tenant fail to vacate the Premises when required or should Tenant fail to remove property as required by Section 16.2 above, and such failure substantially interferes with occupancy of the Premises by another tenant or with occupancy by Landlord for any purposes including preparation for a new tenant, Landlord's rights shall be as follows:

(a) Landlord may elect to treat Tenant as a tenant from month to month subject to all of the provisions of this lease except the provisions for term. Such month-to-month tenancy shall be



terminable at the end of any monthly rental period upon written notice from Landlord given not less than ten (10) days prior to the termination date which shall be specified in the notice.

(b) Landlord may elect to take legal action to eject Tenant from the Premises and to collect any damages caused by Tenant's wrongful holding over.

16.4 "FOR SALE" and "FOR RENT" Signs - During a period of one hundred eighty (180) days prior to the date above fixed for the termination of this lease, Landlord may post on the Premises or in windows thereof signs of moderate size approved by Tenant notifying the public that the Premises are "for sale" or "for rent" or "for lease," provided Landlord gives Tenant ten (10) days' advance notice thereof and permits Tenant to combine such signs with notice of Tenant's intended move. Tenant's approval of such signs shall not be unreasonably withheld. During a period of six (6) months prior to such date, Landlord or its agent may exhibit the Premises to prospective purchasers or lessees during Tenant's normal business hours.

17. ASSIGNMENT AND SUBLEASE

Tenant shall not sell, assign, mortgage, pledge, or in any manner, transfer or encumber this lease or any estate of interest hereunder, or sublet the Premises or any part thereof without the previous written consent of Landlord, which consent shall not be unreasonably withheld. In

any of the events aforesaid, Tenant, nevertheless, shall remain primarily liable for the payment of the basic net rent and all additional rents, and the performance of Tenant's other covenants and obligations hereunder. No consent to any assignment of this lease or subletting of any or all of the Premises shall be deemed a consent by Landlord to any further or additional subletting. In the event of an assignment of this lease, the assignee shall assume, by written recordable instrument reasonably satisfactory to Landlord, the due performance of all of Tenant's obligations under this lease. No assignment shall be valid or effective in the absence of such assumption. A true copy of such assignment and the original assumption agreement shall be delivered to Landlord within ten (10) days of the effective date of such assignment.

18. GENERAL PROVISIONS

18.1 Nonwaiver - Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

18.2 Attorneys' Fees - If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as to pretrial, trial, and appellate attorneys' fees.

18.3 Notices - Any notice required or permitted under this lease shall be in writing and shall be effective when actually delivered or when deposited in the United States Mail as certified mail addressed to the parties at the addresses listed above or to such other address as may be specified from time to time by either of the parties in writing, and to the holder of any mortgage upon the Premises at the address designated by it in writing to the parties.

18.4 Succession - Subject to the above-stated limitations on transfer, this lease shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

18.5 Right of Entry - Landlord or its authorized representative shall have the right during the lease term to enter the Premises during Tenant's normal business hours for the purpose of inspection, provided that Landlord shall exercise reasonable care not to disturb Tenant's use and occupancy of the Premises, and provided Landlord gives Tenant at least two hours' advance notice thereof and affords Tenant the opportunity to have an officer of Tenant present. Landlord's rights under this subsection are in addition to Landlord's right to enter the Premises for the purpose of curing defaults of Tenant as provided in Section 15.

18.6 Entire Agreement - This lease contains the entire and only agreement between the parties, and no oral

statements or representations or prior written matter not contained in this lease shall have any force or effect.

18.7 Written Modification - This lease cannot be changed or terminated orally, but only by an instrument in writing signed by both parties.

IN WITNESS WHEREOF, the parties have executed this lease the day and year first above written.

LANDLORD:

TENANT:

PACIFIC DETROIT DIESEL  
ALLISON, INC.

*Roger P. Burpee*  
ROGER P. BURPEE

By *Richard T. McElroy*  
President

By *Jerry R. Tynell*  
Secretary

PARCEL I: Tract A: A parcel of land in Section 20, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, bounded and described as follows:

Beginning at a point lying 2331.75 feet South of and 666.57 feet East of the Northwest corner of Section 21; thence North  $84^{\circ} 21' 20''$  West, a distance of 1102.35 feet to a point of curve; thence along the arc of a  $12^{\circ}$  curve right having a radius of 477.46 feet and a central angle of  $31^{\circ} 47' 50''$  a distance of 264.90 feet to the point of tangency; thence North  $52^{\circ} 33' 30''$  West, a distance of 1237.90 feet; thence North  $52^{\circ} 30'$  West 193.46 feet; thence North  $37^{\circ} 30'$  East, 331.75 feet to the true point of beginning, said point being South 993.69 feet and West 1608.19 feet from the Northeast corner of said Section 20; thence North  $52^{\circ} 30'$  West 200.00 feet; thence North  $37^{\circ} 30'$  East 277.25 feet; thence South  $52^{\circ} 30'$  East, 200.00 feet; thence South  $37^{\circ} 30'$  West 277.25 feet to the true point of beginning.

TRACT B: The following described property situated in Section 20, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, to-wit:

Beginning at a point in the center line of N. Lagoon Avenue which point is West 1262.03 feet and South 859.40 feet of the Northeast corner of said Section 20; thence North  $52^{\circ} 30'$  West a distance of 192.84 feet; thence South  $37^{\circ} 30'$  West a distance of 40.00 feet to the Southerly right of way line of N. Lagoon Avenue; thence continuing South  $37^{\circ} 30'$  West a distance of 277.25 feet to the true point of beginning; thence North  $52^{\circ} 30'$  West a distance of 200.00 feet; thence South  $37^{\circ} 30'$  West a distance of 62.00 feet; thence South  $52^{\circ} 30'$  East a distance of 200.00 feet; thence North  $37^{\circ} 30'$  East a distance of 62.00 feet to the true point of beginning.

TOGETHER WITH a parcel of land located in Section 20, Township 1 North, Range 1 East of the Willamette Meridian in the County of Multnomah and State of Oregon, described as follows:

Beginning at a point on the center line of the right of way of N. Channel Avenue, said point being 1374.69 feet South and 1655.62 feet West of the Northeast corner of Section 20; thence North  $37^{\circ} 26' 30''$  East, 54.5 feet; thence North  $52^{\circ} 30'$  West, 193.32 feet to the true point of beginning for the herein described parcel; thence North  $52^{\circ} 30'$  West, 200.00 feet; thence North  $37^{\circ} 30'$  East, 215.25 feet; thence South  $52^{\circ} 30'$  East 200.00 feet; thence South  $37^{\circ} 30'$  West, 215.25 feet to the true point of beginning.

TOGETHER WITH all of the right, title and interest of the vestee in, under and by virtue of those easements granted to the vestee by The Port of Portland by instrument dated August 27, 1969, recorded October 8, 1969 in Book 701 page 865, Records of Multnomah County, Oregon, namely:

EASEMENT NO. A - Driveway Easement

Beginning at the intersection of the center line of North Channel Avenue with the center line of North Commerce Street; thence following the centerline of North Channel Avenue South 52° 30' East, a distance of 400.00 feet; thence leaving the center line of North Channel Avenue North 37° 30' East, a distance of 39.5 feet to the Northerly right of way of North Channel Avenue; thence continuing North 37° 30' East, a distance of 15.0 feet; thence South 52° 30' East, a distance of 10.00 feet to the true point of beginning; thence continuing South 52° 30' East, a distance of 42.00 feet; thence South 37° 30' West, a distance of 15.00 feet; thence North 52° 30' West, a distance of 42.00 feet; thence North 37° 30' East, a distance of 15.00 feet to the true point of beginning.

EASEMENT NO. B - Driveway Easement

Beginning at the intersection of the center line of North Channel Avenue with the center line of North Commerce Street; thence following the center line of North Channel Avenue South 52° 30' East a distance of 400.00 feet; thence leaving the center line of North Channel Avenue North 37° 30' East a distance of 39.5 feet to the Northerly right of way of North Channel Avenue; thence continuing North 37° 30' East a distance of 15.0 feet; thence South 52° 30' East a distance of 132.17 feet to the true point of beginning; thence continuing South 52° 30' East a distance of 42.00 feet; thence South 37° 30' West a distance of 15.00 feet; thence North 52° 30' West a distance of 42.00 feet; thence North 37° 30' East a distance of 15.00 feet to the true point of beginning.

EASEMENT NO. C - Utility Easement

Beginning at the intersection of the center line of North Channel Avenue with the center line of North Commerce Street; thence following the center line of North Channel Avenue South 52° 30' East, a distance of 400.00 feet; thence leaving the center line of North Channel Avenue North 37° 30' East, a distance of 59.5 feet to the Northerly right of way of North Channel Avenue; thence continuing North 37° 30' East, a distance of 15.0 feet; thence South 52° 30' East, a distance of 92.50 feet to the true point of beginning; thence continuing South 52° 30' East, a distance of 15.00 feet; thence South 37° 30' West, a distance of 15.00 feet; thence North 52° 30' West, a distance of 15.00 feet; thence North 37° 30' East, a distance of 15.00 feet to the true point of beginning.-----

**Tract A:**

A parcel of land in Section 17, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, described as follows:

Beginning at a point in the Northerly line of North Basin Avenue, said point being 909.87 feet North and 1119.59 feet West of the Southeast corner of said Section 17; thence along the said Northerly line, North  $52^{\circ} 15' 00''$  West, 240.00 feet; thence North  $37^{\circ} 45' 00''$  East, 363.00 feet; thence South  $52^{\circ} 15' 00''$  East 240.00 feet; thence South  $37^{\circ} 45' 00''$  West 363.00 feet to the point of beginning.

**TRACT B:**

That certain real property located in Section 17, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, more particularly described as follows:

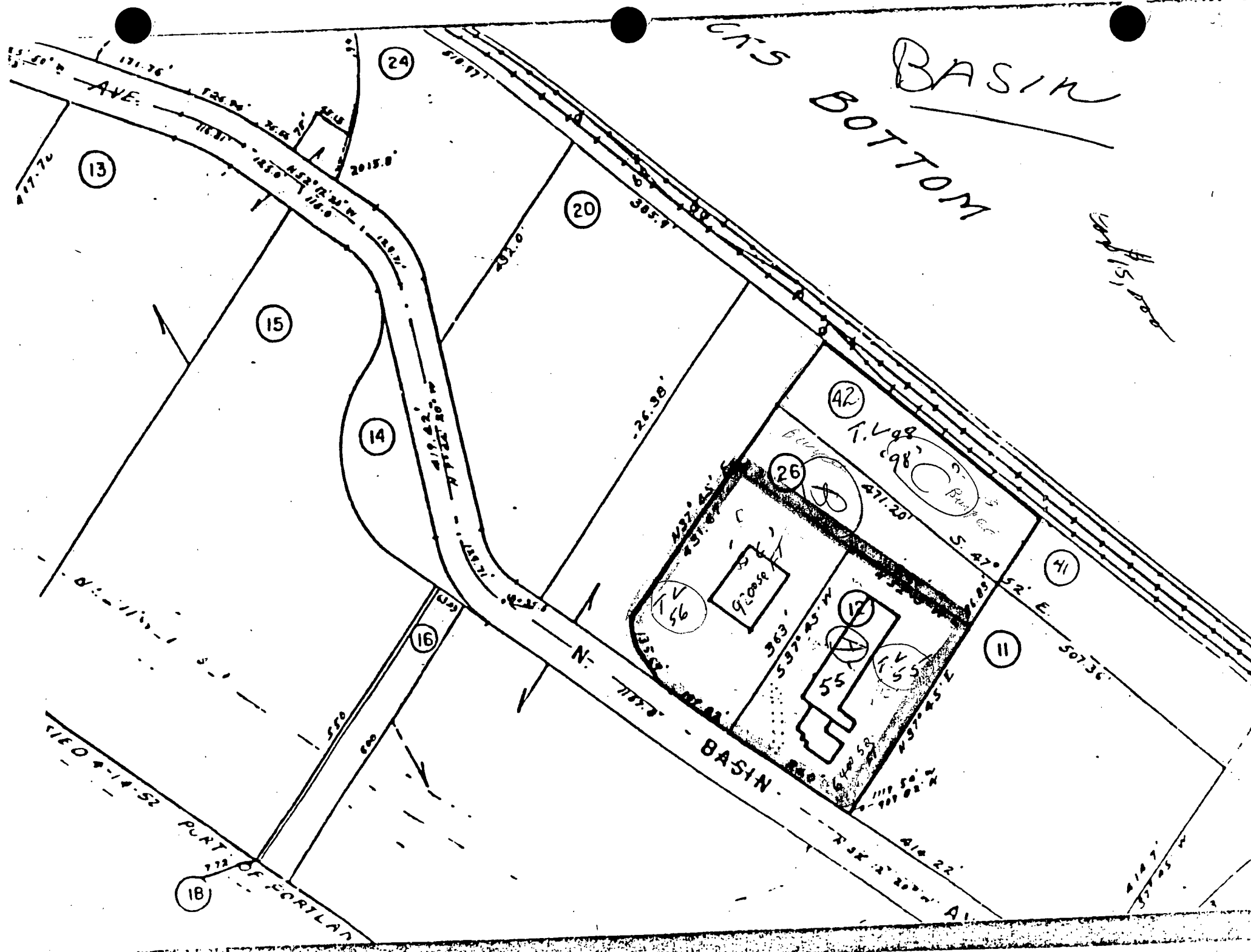
Beginning at a point in the Northerly line of North Basin Avenue, said point being 909.87 feet North and 1,119.59 feet West of the Southeast corner of said Section 17; thence along the said Northerly line, North  $52^{\circ} 15'$  West, 240.00 feet to the true point of beginning; thence North  $52^{\circ} 15' 00''$  West 109.82 feet; thence running Northerly along the arc of a 160.00 foot radius curve to the right to which the last described course is tangent; through a central angle of  $48^{\circ} 35' 25''$  for a distance of 135.69 feet; thence North  $37^{\circ} 45' 00''$  East, 431.67 feet; thence South  $47^{\circ} 52' 00''$  East, 471.20 feet; thence South  $37^{\circ} 45' 00''$  West 86.83 feet; thence North  $52^{\circ} 15' 00''$  West, 240.00 feet; thence South  $37^{\circ} 45' 00''$  West 363.00 feet to the true point of beginning.

**TRACT C:**

The following real property situated in Section 17, Township 1 North, Range 1 East of the Willamette Meridian, in the City of Portland, County of Multnomah and State of Oregon, bounded and described as follows:

Beginning at the Southwest corner of Section 16, Township 1 North, Range 1 East of the Willamette Meridian; thence North  $89^{\circ} 49' 40''$  East 552.50 feet; thence North  $47^{\circ} 49'$  West 2355 feet to the true point of beginning; thence North  $42^{\circ} 10' 30''$  East 135.66 feet; thence South  $47^{\circ} 49' 30''$  East 471.20 feet; thence South  $42^{\circ} 10' 30''$  West 135.66 feet; thence North  $47^{\circ} 29' 30''$  West 471.20 feet to the true point of beginning.

100-151-000





**PARCEL I.**

Beginning at a point being South 88° 26' East 1964.41 feet and North 1° 36' 54" East 373.30 feet from the Southwest corner of the Wilmer Comegys Donation Land Claim No. 59, Township 17 South, Range 2 West of the Willamette Meridian; thence North 88° 26' West 150.00 feet; thence North 1° 36' 54" East 227.94 feet; thence South 75° 32' 15" East 230.78 feet; thence South 1° 36' 54" West 201.43 feet; thence North 88° 26' West 75.00 feet; thence North 1° 36' 54" East 25.00 feet to the point of beginning, in Lane County, Oregon.

**PARCEL II.**

Beginning at a point being South 88° 26' East 2314.41 feet and North 1° 36' 54" East 311.87 feet from the Southwest corner of the Wilmer Comegys Donation Land Claim No. 59, Township 17 South, Range 2 West of the Willamette Meridian; thence North 88° 26' West 178.40 feet; thence North 23° 00' West 40.06 feet; thence North 88° 26' West 79.91 feet; thence North 1° 36' 54" East 201.43 feet; thence South 75° 32' 15" East 217.77 feet; thence South 71° 54' 46" East 65.36 feet; thence South 1° 36' 54" West 170.68 feet to the point of beginning, in Lane County, Oregon.

**PARCEL III.**

A non-exclusive easement and right of way for ingress and egress over the following described parcels.

**A.**

Beginning at a point being South 88° 26' East 1936.41 feet and North 1° 36' 54" East 30.00 feet from the Southwest corner of the Wilmer Comegys Donation Land Claim No. 59, Township 17 South, Range 2 West of the Willamette Meridian; thence North 1° 36' 54" East 343.30 feet; thence South 88° 26' East 28.00 feet; thence South 1° 36' 54" West 343.30 feet; thence North 88° 26' West 28.00 feet to the Point of Beginning, in Lane County, Oregon. EXCEPT that portion conveyed to the City of Springfield for street purposes recorded February 20, 1979, Reel 974, Reception No. 7909920 and re-recorded March 1, 1979, Reel 976, Reception No. 7912041, Official Records of Lane County.

**B.**

Beginning at a point being South 88° 26' East 2286.41 feet and North 1° 36' 54" East 30.00 feet from the Southwest corner of the Wilmer Comegys Donation Land Claim No. 59, Township 17 South, Range 2 West of the Willamette Meridian; thence North 1° 36' 54" East 281.87 feet; thence South 88° 26' East 28.00 feet; thence South 1° 36' 54" West 281.87 feet; thence North 88° 26' West 28.00 feet to the Point of Beginning, in Lane County, Oregon. EXCEPT that portion conveyed to the City of Springfield for street purposes, recorded February 20, 1979, Reel 974, Reception No. 7909920 and re-recorded March 1, 1979, Reel 976, Reception No. 7912041, Official Records of Lane County, Oregon.

1- PLBG.  
2- MEEN.  
3- ELEG.  
4- A/C TA  
5- SIGN.

NOTE FROM CITY

EMERY.  
THE OIL & SAND TRAP FOR  
TRUCK WASH DOWN AREA IS  
LOCATED HERE. GREASE TR  
IS NOTED. I'M NOT SURE ABOUT  
WASTE OIL STORAGE TANK.

- Limits of area affected by well to meet Health Stds.

5/16/80 EJA

PACIFIC DIESEL  
POWER CO. SITES  
IN SPRINGFIELD

NOTES:

221.124.43 22. 57. (5076 42956)

Item	Quantity	Unit Price	Total
1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. <td></td> <td></td> <td></td>			

22.54.5 22.5. -- -11.6% of CTE AREA

PIREX - PACIFIC VESSEL ONLY

SE --- 210 f. --- W. 1/4 --- 400 f. --- W. 1/4

2.2-1260 ft. - : 2.25/100 ft. - - - 1.8

— 11.86  $\text{E}^{-1}$  — 1.67  $\text{m}^2/\text{s}$  — 12.5

21.425 4.0' DA SPACES REQUIRED

SPRINGFIELD

EXISTING BUILDING  
(e.g., new product)

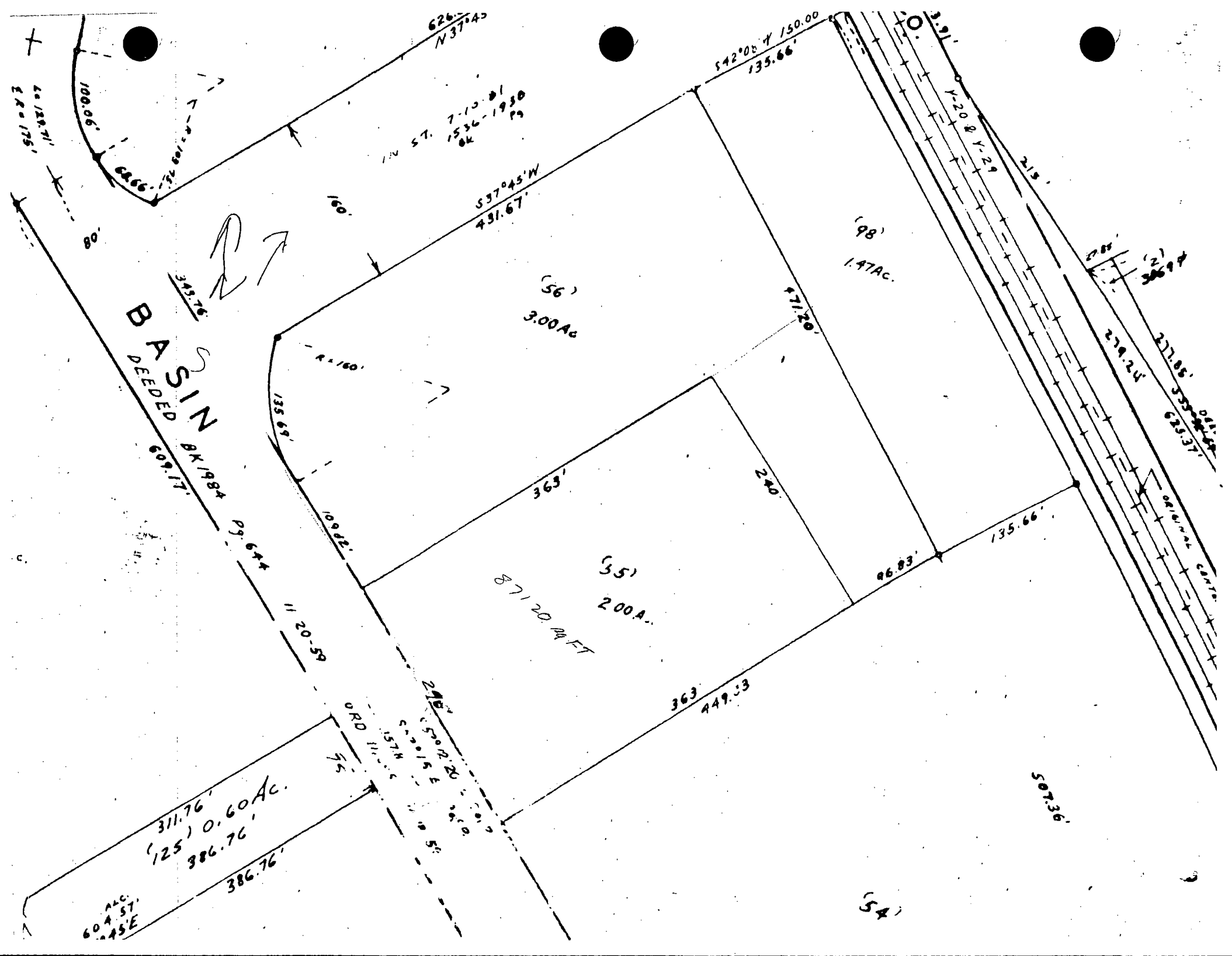
FIG. 21. AER. ANYONE  
IN HOTEL. IN FLICK  
EYE TOP. LEFT  
IN MARCH.

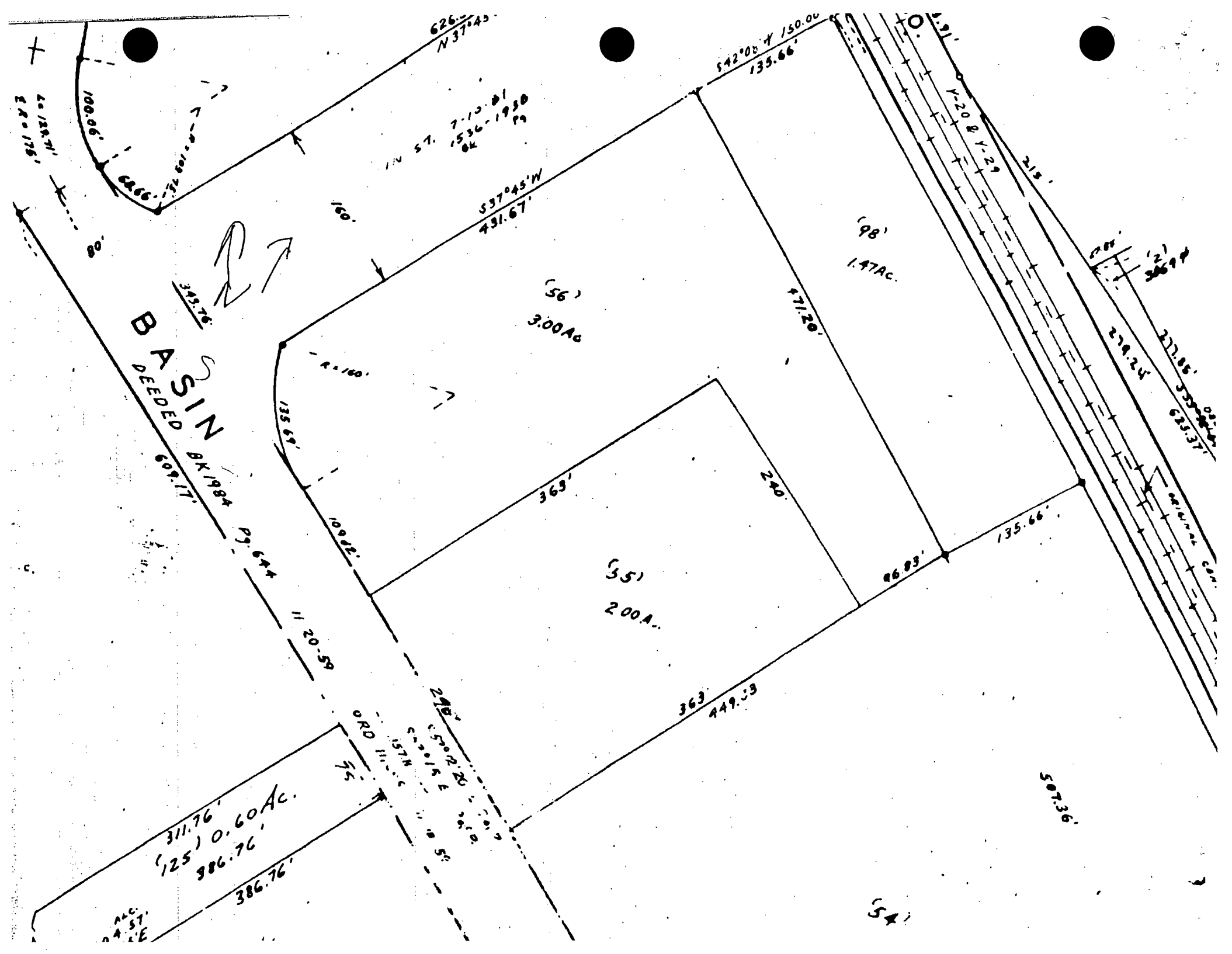
POWER POLE W/TRANS.  
OVERLOAD PROTECT SUPPLY  
P. 2. 9. 1.

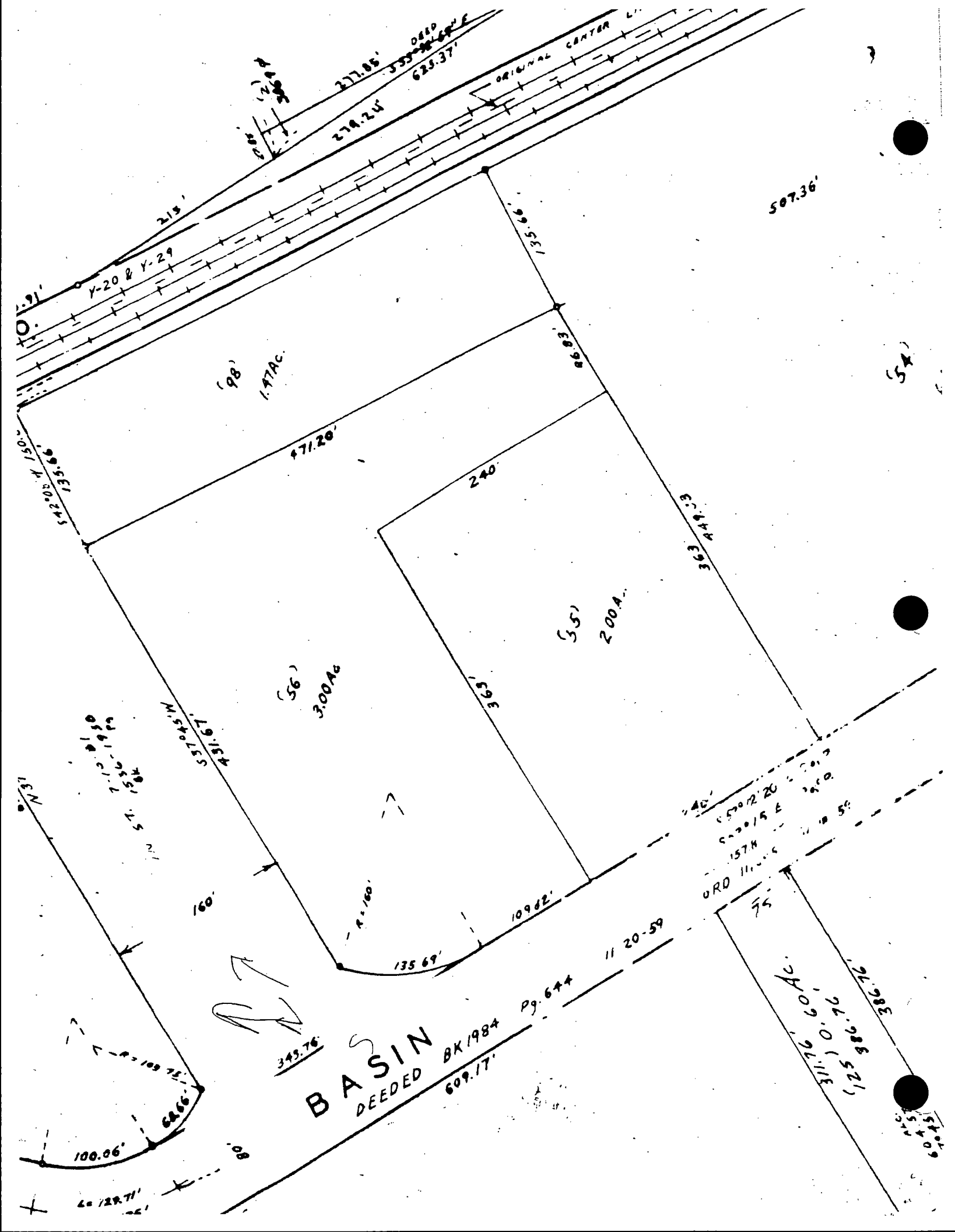
POWER. POWER  
IN BRIGHT LIGHT

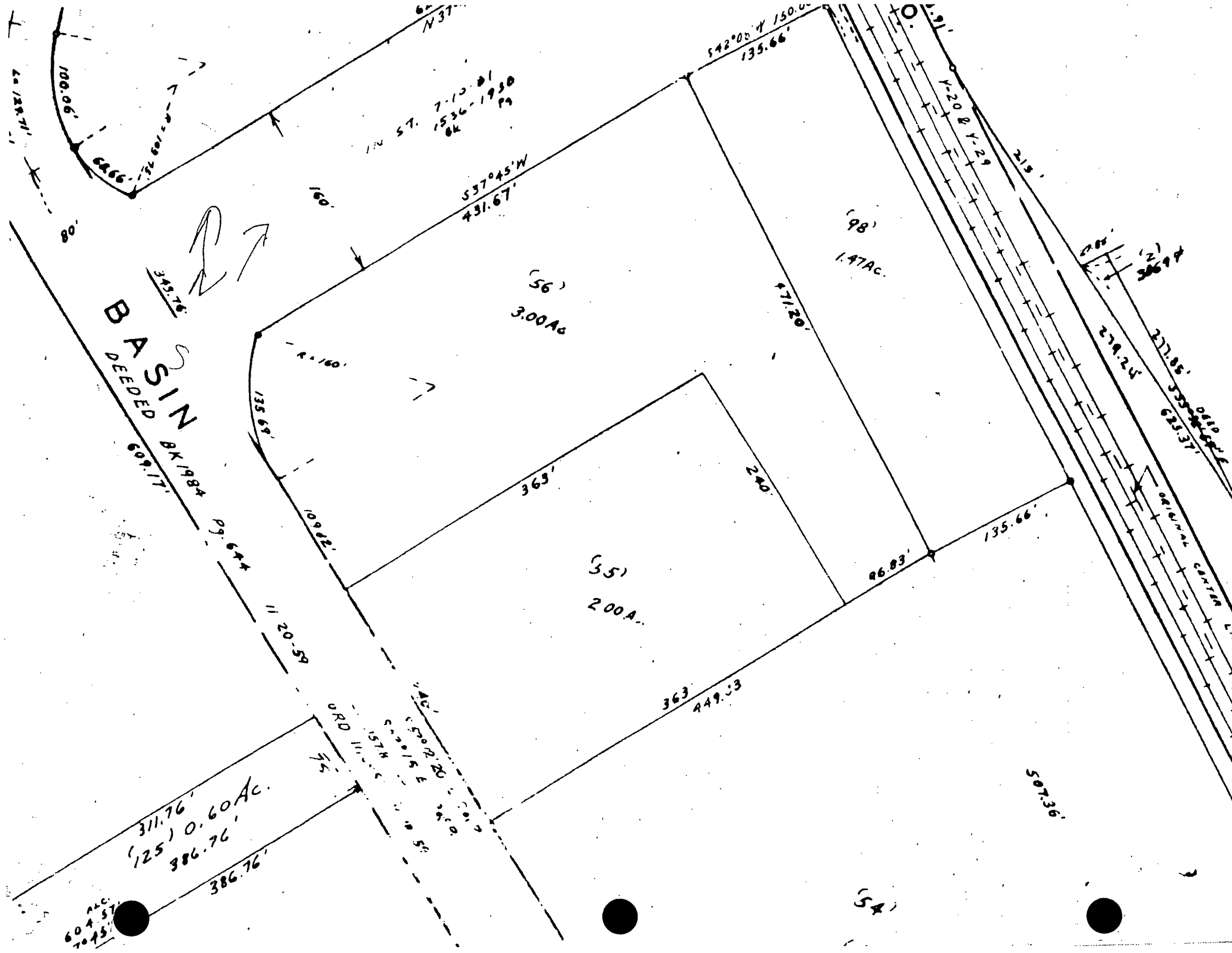
POWER TOLE  
404

POWER TOLE  
404









**BASIN DEEDED**  
BX 1984  
608.17'

IN ST. 7-10-81  
1536-1930  
64

S37°45'W  
431.67'

S42°08'W 150.00'  
135.66'

(56)  
3.00Ac

(98)  
1.47Ac

(55)  
2.00Ac

363'  
449.33

311.76'  
(125) 0.60Ac  
386.76'

ALC  
604.57'  
7045'

S50°36'W  
507.36'

ORIGINAL CENTER LINE  
277.85'  
279.25'  
306.94'  
623.37'

SECOND LEASE EXTENSION AGREEMENT

THIS SECOND LEASE EXTENSION AGREEMENT made as of June 1, 1991 between BRP - Lagoon, Inc., BRP - Basin, Inc. and BRP - Springfield East, Inc. (together the "Burpee Corporations"), Detroit Diesel Realty, Inc., ("Detroit Diesel") and Pacific Detroit Diesel Allison, Inc. ("Pacific Detroit").

PREMISES

WHEREAS, Roger P. Burpee ("Burpee") and Pacific Detroit entered into a Lease, dated May 11, 1984 (the "Lease"), for two parcels of real property located in Portland, Oregon and one parcel of real property located in Springfield, Oregon, and a Lease Extension Agreement, dated May 17, 1989, extending the Lease to May 31, 1999; and

WHEREAS, Pacific Detroit's tenant's interest under the Lease was assigned to and assumed by Detroit Diesel on May 17, 1989;

WHEREAS, Pacific Detroit's rights and duties under the Lease remain and Pacific Detroit has subleased the premises from Detroit Diesel on substantially the same terms and conditions as the Lease;

WHEREAS, Burpee's landlord's interest under the Lease was assigned to and assumed by the Burpee Corporations on June 20, 1990;

WHEREAS, the parties now desire to further extend and modify the Lease on the following terms and conditions;

THEREFORE, the parties agree as follows:

I. EXTENSION OF LEASE.

1.1 Section 1.1 of the Lease is amended to read as follows:

1.1 Original term - The original term of this lease shall commence as of May 8, 1984, and, unless sooner terminated as hereinafter provided, shall continue through May 31, 2002.

1.2 Section 1.2 of the Lease is amended by revising the renewal period to become effective June 1, 2002 through May 31, 2007.

1.3 The first sentence of Section 2.2 of the Lease is amended to read as follows:

On the first day of the fourth, seventh, tenth, thirteenth and sixteenth years of the lease term (the "Adjustment Dates"), the Base Rent shall be subject to adjustment.

1.4 The first sentence of Section 2.3 of the Lease is amended by substituting the phrase "for the eighteenth lease year" in place of the phrase "for the fifteenth lease year."

1.5 Pacific Detroit acknowledges and agrees that its sublease from Detroit Diesel shall be correspondingly amended as provided in this Section I.

II. LESSEE'S ADDITIONAL UNDERTAKINGS.

Pacific Detroit shall, as appropriate:

- a. undertake to rebuild the steam pads at all three locations and install new oil/water separators;
- b. construct a new gutter system at the engine rebuild center in Portland;
- c. provide above ground double-wall storage tanks for fuel oil, heating oil and waste oil and install effluent processing

WHEREFORE, the parties agree as follows:



equipment to process the discharge of effluent from the facilities at each location; and

d. remove the underground fuel oil, heating oil and waste oil storage tanks at the two Portland locations, and to clean up any hazardous materials discovered in such removal activities.

### III. SUCCESSORS AND ASSIGNS.

This Agreement is binding upon the parties hereto and their successors and assigns.

BURPEE CORPORATIONS:

BRP - LAGOON, INC.

Dated: 9-1-91

By: Roger P. Burpee  
Roger P. Burpee, President

BRP - BASIN, INC.

Dated: 9-1-91

By: Roger P. Burpee  
Roger P. Burpee, President

BRP - SPRINGFIELD EAST, INC.

Dated: 9-1-91

By: Roger P. Burpee  
Roger P. Burpee, President

PACIFIC DETROIT:

PACIFIC DETROIT DIESEL, ALLISON, INC.

Dated: 9/9/91

By: Richard T. McCleary  
Richard T. McCleary, President

DETROIT DIESEL:

DETROIT DIESEL REALTY, INC.

Dated: 9/17/91

By: Thomas R. Snell

5-8-01

Roger Burpee  
P.O. Box 487  
Lake Oswego, OR 97034

Dear Roger:

Please consider this official notice of Pacific Detroit Diesel-Allison Co.'s intent to not renew our existing lease for the Springfield and Portland facilities. The current lease expires on May 31<sup>st</sup>, 2002 and we plan on being out of the facilities on or before that date.

Sincerely,

Mark Dawkins  
Vice President